

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

JANICE STEVENSON,

Plaintiff,

v.

NEIGHBORHOOD HOUSE
CHARTER SCHOOL,

Defendant.

CIVIL ACTION NO. 05-CV-11584-DPW

**DEFENDANT’S OPPOSITION TO PLAINTIFF’S MOTION
FOR SANCTIONS AGAINST ATTORNEYS UNDER 28 U.S.C. § 1927**

Defendant Neighborhood House Charter School (“NHCS” or the “School”) submits this memorandum in opposition to Plaintiff’s Motion for Sanctions Against Attorneys Under 28 U.S.C. § 1927 (docket no. 64). In her Motion for Sanctions, Plaintiff Janice Stevenson (“Plaintiff” or “Stevenson”) appears to argue that NHCS and its counsel should be sanctioned because they have (1) improperly withheld the documents sought in her Motion to Compel on claims of privilege, and (2) asserted defenses to her overtime claims in this matter that Stevenson has concluded are not meritorious. Both of these arguments are facially flawed. NHCS has not withheld the documents sought in Stevenson’s Motion to Compel because – as Stevenson certainly knows – those documents never existed. The Court has already rejected Stevenson’s second argument, that NHCS should be sanctioned for asserting defenses to her overtime claims, noting that her unilateral conclusion regarding the viability of NHCS’s defenses cannot serve as a basis for sanctions. The Court should, therefore, deny Plaintiff’s Motion for Sanctions and require Stevenson to pay the costs and attorneys’ fees NHCS has incurred in responding to her frivolous filing.

I. NHCS Has Made No Improper Claims of Privilege

Stevenson's claim that NHCS has withheld the documents sought by her Motion to Compel (docket no. 63) under improper claims of privilege is simply false. In her Motion to Compel, Stevenson seeks an Order requiring NHCS to produce a personnel file and records of hours she worked in providing services to the School. She further claims that the School was obligated to maintain these documents pursuant to state and federal statutes governing employment-related record keeping requirements. As explained in NHCS's Opposition to Plaintiff's Motion to Compel (filed contemporaneously herewith), the documents Stevenson seeks never existed because, as an independent contractor providing administrative services through her own Company, she was never treated as an employee of the School.

Moreover, Stevenson is unquestionably aware that NHCS never had the documents she claims it has improperly withheld. Stevenson testified under oath that she assumed responsibility for creating personnel files for NHCS's employees, and she never created a personnel file for herself because she understood she was not an employee of the School. *See* NHCS's Opposition to Plaintiff's Motion to Compel, p. 3-4. Stevenson also knows that the School has no records of the hours worked in performing services for the School. She testified that she never provided the School with any documents reflecting the hours she worked. *Id.* Stevenson now seek sanctions based on her knowingly false claim that NHCS has improperly withheld documents that never existed. This argument is not only specious, it is advanced in the utmost bad faith.

II. NHCS Should Not Be Sanctioned Merely for Mounting A Defense to Plaintiff's Claims

As a second argument in support of her Motion for Sanctions, Stevenson appears to argue that NHCS and its counsel should be sanctioned for mounting a defense to her claims. She claims that "Defendant and its counsel have knowingly or recklessly pursued a frivolous claim of

exemption under the FLSA.” This argument is indefensible for two reasons. First, Stevenson has so obstructed the progress of discovery in this matter as to preclude any determination regarding the viability of the School’s defenses at this juncture. Second, the Court has already rejected Stevenson’s argument that NHCS acted improperly by asserting defenses to her claims in this matter.

A. Stevenson Has Willfully Obstructed NHCS’s Efforts to Substantiate Its Defenses

Stevenson has taken every step within her power to obstruct NHCS’s discovery efforts in this matter. She has failed to produce responsive and relevant documents in her possession,¹ she has refused to cooperate in her deposition by asserting inapposite constitutional privileges and childishly ignoring questions from NHCS’s counsel,² she has filed motions in another court improperly seeking to block NHCS’s access to information pertaining to her claims in this matter,³ and she has even willfully refused to appear for her deposition as Ordered by the Court.⁴ Having gone to such extreme measures to prevent NHCS from marshaling evidence in this matter, Stevenson’s argument that the School should be sanctioned for failing to substantiate its defenses is absurd.

B. The Court Has Previously Rejected Stevenson’s Argument That NHCS Should Be Sanctioned for Defending Against Her Claims

In addition to being facially implausible, this argument has already been unambiguously rejected by the Court. Plaintiff’s Motion for Sanctions represents the third time Stevenson has

¹ See Excerpted transcript of November 6, 2006 hearing (copy attached as Exhibit A), p. 13:22 - 15:11; Order dated November 7, 2006, p. 2 (docket no. 48).

² See Nov. 6 Trans., p. 25:21 - 27:21; November 7 Order, p. 3.

³ Stevenson filed motions in the U.S. Bankruptcy Court for the District of Massachusetts seeking to quash a subpoena for her company’s banking records and seeking sanctions against NHCS’s counsel. *See In re: Stevenson*, docket no. 03-12304, docket entry nos. 202, 214. The Bankruptcy Court denied her motions and sanctioned her in the amount of \$1,700 for her frivolous filings. *Id.*, docket entry nos. 225, 237, 239.

⁴ See Transcript of January 23, 2007 hearing (copy attached as Exhibit B), p. 12-14.

made the same baseless argument that NHCS should be sanctioned for mounting a defense in this matter. Stevenson first presented this argument in her Motion for Rule 11 Sanctions (docket no. 37), in which she levied the allegation that “[NHCS’s] attorneys have lied to this Honorable Court in their assertion Plaintiff is exempt from FLSA.” Magistrate Judge Alexander summarily disposed of this argument at a hearing in this matter on November 6, 2006, when she told Stevenson that her Rule 11 Motion was “totally, totally misplaced.” *See* Excerpted transcript of November 6, 2006 hearing, Exhibit A, p. 20:7-17. In her written Order denying Stevenson’s Rule 11 Motion, the Magistrate Judge cited that filing as an example of Stevenson “acting in a frivolous and dilatory manner.” Order (docket entry no. 48), p. 4.

Stevenson again asked the Court to sanction NHCS and its counsel for mounting a defense to her claims in her Motion for Order to Show Cause (docket no. 56). In that motion, Stevenson argued, “[i]t has become evident that the School cannot substantiate it [sic] allegation that Plaintiff is an independent contractor . . . or an administrative employee. . .” Apparently realizing that her motion was without support, Stevenson withdrew her Motion for Order to Show Cause by filing dated January 10, 2007 (docket no. 59).

Less than one month after withdrawing her Motion for Order to Show Cause, Stevenson now presents the same ludicrous argument for a third time, and it enjoys no more support at this juncture that it did when Magistrate Judge Alexander rejected it in November 2006. The Court should, therefore, deny Plaintiff’s Motion for Sanctions in its entirety.

REQUEST FOR SANCTIONS

Stevenson’s suggestion that NHCS or its counsel has “unreasonably or vexatiously” multiplied the proceedings in this matter is not only baseless, it is bitterly ironic. In fact, as this Court has twice expressly found, it is *Stevenson* who has needlessly protracted the proceedings in this case by refusing to participate in discovery and by filing a multitude of baseless motions.

See, e.g., November 6 Trans, Exhibit A, p. 26:21 – 27:4 (“Ms. Stevenson, . . . from what this Court has seen, you have used dilatory tactics, you have refused to give information, you have clearly submitted frivolous motions, and your behavior, while the Court always should give a *pro se* plaintiff some leeway and some room, you’ve had a house.”); January 23 Trans., Exhibit B, p. 21:21-23 (“ . . . the short of it is that you have so managed to interfere with the discovery process in this case that it’s necessary now for two Judges of this Court to make extraordinary rulings . . .”).

Through her latest Motion for Sanctions, Stevenson has again squandered the resources of this Court and caused an undue burden to NHCS. She has made the baseless claim that NHCS has withheld documents that she knows never existed, and she has submitted – for the third time – the ludicrous argument that NHCS should be sanctioned for defending against her claims. Moreover, Stevenson’s intransigence in this regard cannot be attributed to ignorance or her *pro se* status. The Court has clearly and repeatedly instructed Stevenson that NHCS is entitled to mount defenses to her claims in this matter, and that the Court will not entertain her frivolous and dilatory motions for sanctions. Stevenson’s pattern of behavior in this case makes it clear that she will not cease her dilatory tactics unless the Court imposes serious consequences for her misconduct. NHCS, therefore, requests that the Court impose harsh sanctions against Stevenson for her continued pattern of frivolous filings.

WHEREFORE, Defendant Neighborhood House Charter School requests that the Court deny Plaintiff's Motion for Sanctions Against Attorneys Under 28 U.S.C. § 1927 (docket no. 64) in its entirety and enter sanctions against Plaintiff Janice Stevenson in the amount of the attorneys' fees and costs NHCS has incurred in responding to her frivolous motion.

Respectfully submitted,
NEIGHBORHOOD HOUSE
CHARTER SCHOOL,
By its attorneys,

/s/ Barry J. Miller

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DATED: February 16, 2007

CERTIFICATE OF SERVICE

I hereby certify that this document was filed through the Court's ECF system and that a true copy of the above document was served on Plaintiff *pro se* Janice Stevenson by first class U.S. mail to P.O. Box 400372, Cambridge, MA 02140 on February 16, 2007.

/s/ Barry J. Miller

Barry J. Miller

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JANICE STEVENSON	.CIVIL ACTION NO. 05-11584-DPW
Plaintiff	.
	.
V.	.BOSTON, MASSACHUSETTS
NEIGHBORHOOD HOUSE CHARTER SCHOOL	.NOVEMBER 6, 2006
Defendant	.
.	

TRANSCRIPT OF MOTIONS HEARING
BEFORE THE HONORABLE JOYCE LONDON ALEXANDER
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the plaintiff:	Janice Stevenson, pro se
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	617-721-2638

For the defendant:	Barry J. Miller, Esquire
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Court Reporter:

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Certified Court Transcriber
240 Chestnut Street
Wrentham, Massachusetts 02093
(508) 384-2003

1 she has no documents.

2 MR. MILLER: She also said at deposition, Your Honor,
3 that she maintained business banking accounts.

4 THE COURT: But she's now saying to the Court I have
5 no documents. Do you understand what that means?

6 MR. MILLER: Yes, Your Honor.

7 THE COURT: And do you understand what that means?
8 That means, that means that if you say as you have just said
9 you have no documents, then as of this date, you cannot use any
10 documents related to that company on your behalf in the future
11 if they emerge because you have just said I don't have them.
12 So you understand that?

13 MS. STEVENSON: Okay. In terms of incorporation
14 papers?

15 THE COURT: Right.

16 MS. STEVENSON: And that's what you wanted,
17 incorporation--

18 THE COURT: Anything, anything related to that,
19 anything that he has requested, that you've seen requested as
20 the defendnat did--

21 MS. STEVENSON: Yeah. Because I think he--

22 THE COURT: You've got to provide those documents.
23 If you don't provide those documents, let this Court state for
24 you now, you can't use them against them later. You will not.
25 You have to provide every document they have asked for in the

1 request for production of documents period.

2 MS. STEVENSON: Okay. From my understanding from
3 their request in regard to Tuck NT, when I told them I did not
4 have those documents, that's my understanding from what he
5 asked and from what I understand he's asking for, I don't have
6 them. There was nothing elaborate about--

7 THE COURT: You can't, don't come back later and say
8 you've got them because you can't use them.

9 MS. STEVENSON: Well, I don't have them.

10 THE COURT: Okay, fine.

11 MS. STEVENSON: Okay.

12 THE COURT: Did you hear her, did you hear her say
13 it?

14 MR. MILLER: I did, Your Honor.

15 THE COURT: Okay.

16 MS. STEVENSON: Okay. Because all we have her is
17 what he's--

18 THE COURT: Tax returns?

19 MS. STEVENSON: No, these aren't, these aren't tax
20 returns.

21 THE COURT: No, tax returns. Your personal tax
22 returns?

23 MS. STEVENSON: Yeah.

24 THE COURT: They can get them.

25 MS. STEVENSON: No, no, no, no. I said the only

1 thing he has in regard to, is, is, that company is invoices
2 or time sheets. Is that what you talking about because he has
3 those.

4 THE COURT: You can read what he wants. You know
5 what he wants.

6 MS. STEVENSON: But I told him I don't have them.

7 THE COURT: You're a very intelligent person. You
8 can see what he wants by what he asks for, and you give him
9 every document that he has asked for, every document that he
10 has asked for, period. There's no issue here. There's no
11 issue in this case.

12 MS. STEVENSON: I just want to make sure you're not
13 wiping out documents they already have.

14 THE COURT: Oh, documents they already have they
15 don't need to have again. Any other documents--

16 MS. STEVENSON: I don't have anything what--

17 THE COURT: You don't have anything else, that's
18 fine.

19 MS. STEVENSON: I don't have any tax returns that say
20 Tuck NT on them.

21 THE COURT: If you have personal tax returns--

22 MS. STEVENSON: I have personal?

23 THE COURT: --you produce them, period.

24 Now, let's move on to the next issue. You have no
25 documents with Tuck NT but you have personal tax returns,

1 produce them.

2 MS. STEVENSON: But they had no--

3 THE COURT: They're correct.

4 MS. STEVENSON: --they don't show Tuck NT.

5 THE COURT: It doesn't matter. Those personal tax
6 returns will show your income in other matters that are
7 discoverable, that the defendnat is entitled to. So that is
8 this Court's rule.

9 Now, let's go onto the next motion. The next motion
10 is your motion for Rule 11 sanctions. You may be heard on
11 that. You may be heard on that motion.

12 MS. STEVENSON: Okay, my Rule 11 sanctions. Oh, I
13 don't have it in front of me here, but basically what my
14 concern is that the defendant - Rule 11.

15 THE COURT: Argue it. That's why you're here for a
16 hearing on all of these motions.

17 MS. STEVENSON: Can we skip that and go to the - I'm
18 trying to recall what Rule 11 is. Would you read it to me?

19 THE COURT: Do you want me to tell you what your
20 motion said? Okay.

21 MS. STEVENSON: No, no, no. What does Rule 11--

22 THE COURT: No, here is what your motion says. Your
23 motion is against the defendant claiming that the defense
24 counsel knowingly lied to the Court in defending their client,
25 and basically you should know this because you filed it. It

1 says that they lied to the Court in defending their client
2 because they knew their client willfully violated the law.

3 MS. STEVENSON: Oh, yes. Yes, and I filed some
4 attachments there with it--

5 THE COURT: Uh-huh.

6 MS. STEVENSON: --because, the attachment will show
7 that the defendant, my ex-employer had, willingly knew or did
8 not care and stated openly that they did not care about any
9 federal laws or state regulations in regard to employees or
10 compliance, and--

11 THE COURT: Okay. Go on.

12 MS. STEVENSON: --and in that also there are
13 documents that shows that, and I have some of them here from
14 the defendant's own files and they're the same files I
15 received, is that when I was paid, even though they paid me
16 under the name of Tuck NT, my wages were charged just as other
17 employees' wages were, and my vacation was accrued just like
18 other employees' vacation was accrued, and sick time was
19 allotted and personal days were allotted, and my, my contention
20 is, you know, they may say independent contractor, but they
21 treated me and I was an employee. There are two documents I
22 have here that is a final letter that I got from the dean and
23 that was the first time I ever knew of any issues in terms of
24 performance over the last day of my employment, but the day
25 after that he sent out a letter to the staff. He never

1 mentioned that Janice was an independent contractor and that
2 her company is no longer with the school. So, you know, the
3 attorneys say one thing, but they also know from their client's
4 actions that it could not be true.

5 THE COURT: Thank you. I'll hear from the - you can
6 be seated. Let me hear from the defendant.

7 MR. MILLER: Your Honor, as reflected in our papers,
8 we believe that the Rule 11 motion Ms. Stevenson has filed is
9 utterly without merit and she does, in fact, essentially seek
10 sanctions against us for defending our client. It is our
11 contention that she was an independent contractor of the
12 school. We believe that's supported by the documentary record.
13 It's also our contention that had she been an employee of the
14 school, she would have been exempt under the white color
15 exemptions to the statute. There's nothing asserted in bad
16 faith. And in fact, it's Ms. Stevenson's motion that's
17 asserted in the utmost bad faith. The documents that she
18 referred to that she attached to her motion, she
19 surreptitiously altered. In submitting to this Court, she
20 redacted a line from the email that she attached as Exhibit 1,
21 and the full copy is attached as an exhibit to our opposition
22 to her motion, in attempts to deceive this Court about the
23 nature of the conversations that she just referred to, and we
24 believe that this motion was filed essentially in retaliation
25 for our efforts to secure discovery from Ms. Stevenson and that

1 it is a plain waste of this Court's time and it's abusive to
2 the school and it's caused us to expend additional completely
3 unnecessary resources and deprived the school of funds that
4 should be devoted to its charitable mission.

5 MS. STEVENSON: Your Honor, may I respond?

6 THE COURT: You may.

7 MS. STEVENSON: Your Honor, there is no one person
8 who's on the payroll in error and that's what he's saying, and
9 that email I say was my employer's attitude. You know, we,
10 this employer routinely classified employees where they would
11 not receive overtime, just like they did me, but every
12 mechanism they use in order to scurt the law as the dean said
13 or to make, or to make it easier for the school to operate with
14 less money, that's what they did. That email was not redacted.
15 That is the codified policy of that school. The penalties
16 aren't that great. The penalties aren't that bad because they
17 had lawyers. They had Sullivan Worcester who sits on their
18 board or make them hire a number of lawyers who can defend them
19 because they know with these lawyers there's not going to be a
20 lot of penalties that they're going to have to pay or be
21 assessed against. And, you know, this is, that's common
22 knowledge to me. So when I have an attorney who can look at
23 the record, and they're not unexperienced attorneys, but when
24 you have attorneys who can look at the paperwork under a
25 federal law such as the FLSA, and then say they did no wrong, I

1 know better than that. I know I personally, I know I
2 personally sat in the dean's office and we did not, the people
3 would bring the time sheets up that had overtime on it. He
4 would send it back to them and say fill out a new one.

5 THE COURT: Ms. Stevenson?

6 MS. STEVENSON: Yes, ma'am.

7 THE COURT: I understand that you're pro se, but
8 you're motion is totally, totally misplaced. It is not only
9 misplaced, as counsel says, you're bringing a Rule 11 motion,
10 and from what the Court gleans from reading what you said, you
11 clearly must not understand Rule 11 because your motion is not
12 only misplaced, it is procedurally defective. You didn't give
13 counsel 21 days notice, which you were supposed to do under
14 Rule 11, but more than that, you bring this motion because
15 counsel is representing one thing and you're representing
16 another. You can't do that. This motion, I mean, you brought
17 this action against them.

18 MS. STEVENSON: Yes.

19 THE COURT: Rule 11 says, talks about the
20 frivolousness of an action. You brought the action against -
21 their defense isn't, if you wanted to say their defense is not
22 frivolous, but you didn't give them, first and foremost, it was
23 procedurally defected. Secondly - because you didn't give them
24 21 days. Do you understand that? You didn't give them 21
25 days.

1 MS. STEVENSON: But, Your Honor--

2 THE COURT: No, you didn't give them 21 days. You
3 didn't.

4 MS. STEVENSON: But, Your Honor, when they--

5 THE COURT: If you wanted to bring a Rule 11, you had
6 to do that and you didn't do it.

7 MS. STEVENSON: But, Your--

8 THE COURT: But number two, number two, it's totally
9 misplaced.

10 MS. STEVENSON; But, Your Honor, I think Rule 11 says
11 if there's, like they're making a false statement.

12 THE COURT: Wrong, denied.

13 Motion for terminating sanctions or in the
14 alternative to compel deposition testimony. Let me hear from
15 defendant.

16 MR. MILLER: Your Honor, that motion, as I mentioned
17 earlier, relates to Ms. Stevenson's utter and stubborn refusal
18 to participate in her depsoition which we believe is her
19 culmination of her refusal to participate in this case and
20 warrants the dismissal of this action along with her other
21 frivolous filings. In addition to flatly refusing to answer
22 simply background questions, icnluding questinos about her
23 residential address, she, for example, told me she didn't know
24 whether she had a home. She didn't know where she had slept
25 the night before. She didn't know how she had gotten to my

1 office. She refused to tell me where she went to high
2 school because she said she didn't want me investigating her
3 background. That's the beginning of it, and I thinkt he first
4 25--

5 THE COURT: Well, where she went to high school, what
6 does that have to do with it?

7 MR. MILLER: Well, her education is relevant to her--

8 THE COURT: I mean, that's one question. If you're
9 going to talk about some depsoition questions, let's talk about
10 some serious deposition quesitons.

11 MR. MILLER: You're right, Your Honor. That's just
12 one example. The ones that are the most serious for purposes
13 of this case relate to the services that she performed for the
14 school and where and how she performed them. She refused to
15 tell me whether or not she owned a computer during the period
16 of time her company was engaged by Neighborhood House Charter
17 School. She refused to tell me whether or not she had internet
18 access in her residence at that time. She refuses to tell me
19 whether she had performed work for the school from her home,
20 all of which is relevant to her indpendent contractor status
21 and to the hours she claims to have worked for the school.

22 In addition, she completley refused to look at
23 documents that I placed before her as exhiibts to her
24 depsoition. She refused even to set eyes on them and cut off
25 entire lines of questionning that related to, among other

1 things, her attendance at law school, which is centrally
2 relevant to this case because she was providing legal
3 compliance advice to the school among other things, and she
4 simply refused to participate. She asserted completely
5 inapplicable constitutional privileges, which I explained the
6 school's position that those had no bearing. She claimed that
7 the information that we were seeking was irrelevant. I went so
8 far because of her pro se status as to mark a copy of Rule 30
9 and talk her through the appropriate scope of an objection and
10 the fact that testimony is taken at deposition subject to the
11 objections and she could not refuse to testify based on
12 relevance. And she persisted and she cut off entire areas of
13 discovery that are centrally relevant to this case, again,
14 causing the school to expend thousands and thousands of dollars
15 in resources and utterly blocking us from mounting an effective
16 defense in this matter. It's not even such that we can ask the
17 Court to give us the inference that might be had based on her
18 assertion of inapplicable privileges because we can't even get
19 at the underlying basic information about for example her
20 educational history, the tools she used to do the services
21 that she performed for the school and such. The cases that are
22 cited in our motion establish that it is well within the power
23 of the Court to dismiss the plaintiff's claim for misconduct
24 that is much less serious, and to dismiss the claim of a pro se
25 plaintiff in similar circumstances. And we would certainly ask

1 that if the Court is disinclined, notwithstanding the
2 Stevenson's long pattern of misconduct in this case, the Court
3 is disinclined to dismiss the claim that she be ordered to pay
4 substantial monetary sanctions to the school because as I've
5 mentioned a couple of times, she's caused unbelievable
6 distraction and expense to a public resource, and the only way
7 that she will be deterred from continuing this pattern, which
8 has gone on not only in this court but in the bankruptcy court
9 and in seven administrative agencies, is if she is forced to be
10 accountable for her actions and the expense that she's causing
11 the school.

12 THE COURT: Questions on the deposition,
13 Ms. Stevenson, you know you are to answer questions on a
14 deposition. You may make an objection but you answer the
15 question, you make an objection and then you bring those
16 objections to the Court at the appropriate time, but not, you
17 can't refuse to answer question at a deposition.

18 MS. STEVENSON: Well, Your Honor, the case in - well,
19 this is an overtime payment case, and my, when I went to the
20 deposition, I thought they wanted to get to the heart of the
21 deposition, and as I told him, when I went to work for my
22 ex-employer, you know, there was no background check. There
23 was no, or address verification check, but they didn't care
24 where, they didn't ask well, where do you live? Do you have
25 the necessary tools to do overtime? And that is what I told

1 him. I says, if I went up to Lasser University and used
2 their computer room to finish my work, or I went over to the
3 women's center in Cambridge, or I used another public access
4 computer, Neighborhouse didn't care. They didn't question it.
5 I did it when it was, if I had some work to do and I took it
6 home--

7 THE COURT: But those questions, those kinds of
8 questions merit and warrant an answer. Well, I went to such
9 and such and I used their, this is where I got--

10 MS. STEVENSON: I told him that, but when he, when he
11 wanted to know - I told him this, wherever, if I worked off
12 site or I worked over, if I worked off site or after hours, I
13 was saying that when I came back Monday the work was done and
14 no one--

15 THE COURT: But if he said, well, what did you do,
16 you can answer that question.

17 MS. STEVENSON: I did. I told him if I did payroll
18 because I was--

19 THE COURT: give me an example of what she didn't
20 answer?

21 MR. MILLER: Your Honor, in that vain, she refused to
22 tell me whether she had access for example to payroll
23 information from her residence. Essentially questions that are
24 targeted at the resources she aintained at her home to provide
25 sservices like the services shed provide ffor the school, and

1 that is directly relevant--

2 THE COURT: You're supposed to answer that question.

3 MS. STEVENSON: No, ma'am. It's broad based--

4 THE COURT: Did you just tell me no?

5 MS. STEVENSON: Yes, ma'am. Yes, ma'am. I told him,
6 he says did you access from home? It's a web based program.

7 You can access it from anywhere in the world. I can go up to,
8 if I had access right now, we could access--

9 THE COURT: Did you tell him what the web based
10 system was?

11 MS. STEVENSON: I assume he knew?

12 THE COURT: No, don't assume anything. Don't assume
13 anything. When, from now on, you go back to that deposition
14 and when the defendnat asks you the question, you answer it.
15 You don't assume anything. You answer, you answer the
16 question.

17 MS. STEVENSON: Well, let me ask you this, Your
18 Honor--

19 THE COURT: No, we don't need to, we don't need to be
20 asking the court question. You need to - let me tell you,
21 Ms. Stevenson, in reading this and in reading the papers in
22 this case, the district judge didn't dismiss this case at this
23 point, and there will be a point when you can file, I
24 understand you tried to mediate it and didn't, that's too bad,
25 because this, from what this Court has seen, you have used

1 dilatory tactics, you have refused to give information, you
2 have clearly submitted frivolous motions, and your behavior,
3 while the Court always should give a pro se plaintiff some
4 leeway and some room, you've had a house. You had a house.
5 You have tried in every instance that the defendant has asked
6 for information, you haven't given it to them because you, as
7 you said, I assume they knew. I don't like this question. I
8 don't think they ought to have this. Yes, they should. Once you
9 have decided this case is going forward, as you have, then you
10 object, you can sit at the deposition, you can say, I don't like
11 this question, high school, I don't like this question, I
12 object, but I'll answer it. I object. You can object as much
13 as you please, but you must answer the question. That's the
14 rule. You must answer the question, and if you do that, this
15 case will move faster. If you provide the information that you
16 haven't provided, it will move faster, because you must
17 understand that if you refuse to give information that the
18 plaintiff (sic) asks for, then you can't later on come back and
19 say, well I have this document, which is the document they
20 requested. You can't use it because you didn't give it to them
21 when they asked for it.

22 So I will issue an order and I will write everything
23 out so you'll understand, and you need to within 14 days of
24 today, so that we won't have any question about when you need
25 to give information, testimony or documents, you have 14 days

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UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

* * * * *

JANICE STEVENSON

Plaintiff

VERSUS

CA-05-11584-DPW

NEIGHBORHOOD HOUSE CHARTER
SCHOOL

Defendant

* * * * *

BEFORE THE HONORABLE DOUGLAS P. WOODLOCK

UNITED STATES DISTRICT COURT JUDGE

STATUS CONFERENCE

JANUARY 23, 2007

APPEARANCES:

JANICE STEVENSON, Post Office Box 400372, Cambridge,
Massachusetts 02140, in proper person

BARRY J. MILLER, ESQ., Seyfarth, Shaw, LLP, Two Seaport
Lane, Suite 300, Boston, Massachusetts 02210, on
behalf of the Defendant

Courtroom No. 1 - 3rd Floor
1 Courthouse Way
Boston, Massachusetts 02210
10:15 A.M. - 10:45 A.M.

Pamela R. Owens - Official Court Reporter
John Joseph Moakley District Courthouse
1 Courthouse Way - Suite 3200
Boston, Massachusetts 02210

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1 THE COURT: Well, I have a series of motions here.
 2 But I want to step back a bit first and understand from both
 3 parties' perspectives what's going to be necessary to get this
 4 to judgment here. Mr. Davis, is it?

5 MR. MILLER: Mr. Davis has withdrawn, Your Honor.
 6 He was Ms. Stevenson's former counsel.

7 THE COURT: I'm sorry.

8 MR. MILLER: I'm Barry Miller here for Neighborhood
 9 House Charter School.

10 It is our position, Your Honor, that this case has
 11 become an intractable mess because of Ms. Stevenson's pattern
 12 of misconduct in this matter and in several related matters.
 13 And we believe that Magistrate Judge Alexander's order of
 14 November 7th served as last and final warning to Ms. Stevenson
 15 that her conduct up to that point had been inexcusable and
 16 would not be tolerated further. And starting days after
 17 Magistrate Judge Alexander entered that order, Ms. Stevenson
 18 not only continued her pattern of behavior, but actually
 19 escalated her antics. She continued to file frivolous motions
 20 against the school in this forum and in the Bankruptcy Court
 21 because she knew she had worn out her welcome here. She
 22 disregarded Magistrate Judge Alexander's clear instruction that
 23 she produce specifically designated documents and she willfully
 24 failed to appear for her deposition.

25 THE COURT: I understand that larger position. But

Page 3

1 assume that this is going to be resolved on the merits. What
 2 needs to be done?

3 MR. MILLER: Your Honor, in order for us to respond
 4 to the substance of the claims that Ms. Stevenson has asserted,
 5 we have to be able to take discovery. We have to get a
 6 meaningful document production from her. She's in control of
 7 most of the documents relating to the case. Because one of the
 8 central issues here is whether her company through which she
 9 provided services to Neighborhood House Charter School was an
 10 independent contractor or whether she was, in fact, an employee
 11 directly of the school.

12 THE COURT: But is it simply discovery from her and
 13 the associated document requests -- that is, document requests
 14 from her? Is there anything else? Is it all focused on
 15 Ms. Stevenson?

16 MR. MILLER: It's almost entirely focused on
 17 Ms. Stevenson, including deposition testimony which she has
 18 refused to give up to this point.

19 THE COURT: All right. Ms. Stevenson?

20 MS. STEVENSON: Before I address that, I've been
 21 trying to obtain the transcript from the hearing the Magistrate
 22 had. And on the docket, it referred to a phone number and
 23 person. And I've been trying to contact that person to get a
 24 copy of the transcript. And I believe they're within this
 25 court. Can you tell me how I can get a transcript of that

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1 hearing? I sent the E-mail to Ms. Rowland. So, I wanted to
 2 bring that up. But in regards to --

3 THE COURT: Magistrate Judge Alexander was pretty
 4 clear on what she ordered.

5 MS. STEVENSON: Well, no. I want the transcript of
 6 the --

7 THE COURT: Well, that's fine. You can go get the
 8 transcript. And Ms. Rynne will help you, although I think it's
 9 pretty clear how one goes about ordering a transcript. But
 10 that's immaterial at this point.

11 MS. STEVENSON: Yeah. But --

12 THE COURT: The question is whether or not you're
 13 going to comply with Judge Alexander's orders.

14 MS. STEVENSON: Your Honor, I have submitted
 15 documents and I have tried to bring to this Court's attention
 16 and the Bankruptcy Court's attention that the documents they
 17 request I don't have. And the ones I have, I have given to
 18 them.

19 THE COURT: So let me be clear about this. Your
 20 position is that there are no other documents?

21 MS. STEVENSON: The ones she ordered, I have
 22 submitted to this Court and to them.

23 THE COURT: All right. So that's her position.
 24 What do you say? Is there anything else?

25 MR. MILLER: Your Honor, she made that same

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1 representation to Magistrate Judge Alexander. And she has
 2 since attached documents to her filings in this matter and in
 3 other matters that are directly responsive to our request that
 4 she had not prior produced. She attached documents to her
 5 motion for summary judgment that she filed in this Court on the
 6 day that she was supposed to be sitting for her deposition.
 7 And attached to that pleading were documents that were
 8 responsive --

9 THE COURT: Okay. Well, let's just pause for a
 10 moment. Are there any other documents -- any other documents?
 11 Because if there is another document and it's produced late or
 12 I'm shown that there is another document, I'm going to hold you
 13 in contempt. So, think long and hard. Are there any other
 14 documents responsive to Judge Alexander's order that you have
 15 not yet produced?

16 MS. STEVENSON: I think -- I feel like I have
 17 produced everything she's --

18 THE COURT: I'm taking that as your representation,
 19 there are no other documents.

20 MS. STEVENSON: Yeah, because she only wanted three
 21 documents -- tax forms, the calendar, and I forgot what the
 22 other one is. But I produced three.

23 THE COURT: I don't really care what --

24 MS. STEVENSON: But the point is this.

25 THE COURT: -- you've produced in the past. Let me

2 (Pages 2 to 5)

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1 be clear about this, Ms. Stevenson. Now the time has come. If
 2 you tell me that you have complied fully with Magistrate Judge
 3 Alexander's orders, that all the documents have been produced,
 4 then I'll accept that representation. If I find that that
 5 representation is wrong and the defendants can show to me
 6 either that there are documents that you didn't produce or you
 7 continue to produce in some other forum or even in this forum
 8 documents that were responsive, I'm going to hold you in
 9 contempt.

10 MS. STEVENSON: Okay.

11 THE COURT: Do you understand?

12 MS. STEVENSON: I understand.

13 THE COURT: Okay. So --

14 MS. STEVENSON: But I --

15 THE COURT: Just a moment. Now, no extra
 16 discussion about it.

17 MS. STEVENSON: It's not a discussion. I want to
 18 know why on the documents I produced that has determined
 19 that -- I really feel there is no other issue involved if --

20 THE COURT: We're going to get to that, but we're
 21 going step by step. And the first step is the documents. You
 22 tell me and you've represented to me on pains that I will hold
 23 you in contempt and I should add enforce as sanction the
 24 dismissal of the case if new documents appear.

25 MS. STEVENSON: Well, Your Honor, if you're going

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1 various actions that you have taken. Now, I intend -- as
 2 Magistrate Judge Alexander did -- to clarify this so that we
 3 can get to the merits so that the respective positions of the
 4 parties may be fairly evaluated. But I'm not going to let
 5 somebody interfere with that process. And I want to be as
 6 clear as I can what the consequences are.

7 First, the documents. So, that's where we stand on
 8 the documents.

9 MR. MILLER: Your Honor --

10 THE COURT: You understand --

11 MR. MILLER: Yes, Your Honor.

12 THE COURT: -- that you're going to have to
 13 demonstrate to me that there were documents produced afterwards
 14 or you have a basis for believing that there are other
 15 documents that she has not produced.

16 MR. MILLER: If I could clarify, Your Honor, she
 17 has apparently -- and I haven't seen them. But it's my
 18 understanding that she filed documents with the Court,
 19 including her tax returns and perhaps some journals that were
 20 at issue in the case that we don't yet have.

21 THE COURT: Have you provided them for defendant?

22 MS. STEVENSON: Yes, sir. And I have proof that I
 23 sent them to him. I sent them electronically.

24 THE COURT: No. There were a large number of
 25 documents.

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1 to dismiss the case on documents that show that the defendant
 2 had never ascertained their claim that I was an independent
 3 contractor, doesn't that go against what the overtime wage law
 4 stands for?

5 THE COURT: You're talking about something entirely
 6 different.

7 MS. STEVENSON: I am? I think we're talking about
 8 the same thing. Because in my mind --

9 THE COURT: Ms. Stevenson --

10 MS. STEVENSON: -- to me --

11 THE COURT: Ms. Stevenson, let me be clear. I'm
 12 going to go step by step.

13 The first step is the documents, whether or not you
 14 have produced all of the documents. That's all we're talking
 15 about right now. I'm going to go to the next step.

16 MS. STEVENSON: Okay. Well, why -- may I --

17 THE COURT: Are you going to listen to me or not?

18 MS. STEVENSON: Well, I --

19 THE COURT: Are you going to listen to me or not?
 20 No. Please step back. Are you going to listen to me or not?

21 MS. STEVENSON: I'm listening.

22 THE COURT: Okay. I've just told you the first
 23 step. You will have adequate opportunity to address me on
 24 other matters. But this case has been transformed into a
 25 mess. And it has been transformed into a mess because of

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1 MS. STEVENSON: Yes. When they sent me the E-mail
 2 after they received this document, they never told me -- and I
 3 have the E-mail here with it. They never told me after they
 4 received this document that there was some missing. I didn't
 5 know about their alleged missing documents until they wanted to
 6 file a supplemental brief. And I have that E-mail here with me
 7 from them.

8 THE COURT: The docket reports as follows with
 9 respect to your motion for summary judgment: "Motion for
 10 summary judgment by Janice Stevenson. Exhibits voluminous and
 11 unscanned," which means that they weren't sent by electronic --

12 MS. STEVENSON: No, no, no, no, no. I brought
 13 those in here, because I don't have access to what attorneys
 14 do. But they can --

15 THE COURT: Did you provide them to --

16 MS. STEVENSON: Yes.

17 THE COURT: -- the defendants? You provided those
 18 documents to the defendants?

19 MS. STEVENSON: Yes. I E-mailed him those
 20 documents.

21 THE COURT: You E-mailed the documents to the
 22 defendants?

23 MS. STEVENSON: I E-mailed all of them. Everything
 24 I have sent to him has been by E-mail.

25 MR. MILLER: Your Honor, she did send me a series

3 (Pages 6 to 9)

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1 of six E-mails attaching essentially the same thing over and
2 over again. As I understand it, what she has sent to me is
3 some small fraction of what she filed with her papers.

4 THE COURT: When you say as you understand, what's
5 the basis for that understanding?

6 MR. MILLER: When she filed those papers, I had a
7 discussion with Ms. Rynne about what was filed because it was
8 clear that what she served on me was different from what she
9 had served on the Court. And we had concerns about some of the
10 specific documents that we thought she may have filed because
11 she was, in fact, sanctioned by the Bankruptcy Court from
12 filing those specific documents because they are confidential.
13 And as I understand it -- and, again, I have not seen what she,
14 in fact, filed with the Court and it's not available online.
15 But as I understand it, the documents she produced to the Court
16 or filed with the Court include some journals that she
17 submitted to the U.S. Department of Labor and various other
18 materials. What she has produced to me are her tax returns and
19 only in part and excluding the documents that are most relevant
20 to her claim in this case, including Forms W-2, Forms 1099, and
21 things like that. We don't have the journals and we don't have
22 the various other documents she was ordered to produce.

23 THE COURT: All right. So you go look at the court
24 file. That's how you're going to get access and make the
25 determination of whether or not she actually served on you all

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1 of the materials that she said she did. She says that she
2 served on you by E-mail all the documents that were produced in
3 connection with the motion for summary judgment. I take that
4 as a representation. If it's inaccurate, it will be grounds
5 for contempt. Do you understand?

6 MS. STEVENSON: Yes. I have the E-mail.

7 THE COURT: No, no. What's going to happen is
8 counsel is going to look at what's on file in this Court.

9 MS. STEVENSON: Yes.

10 THE COURT: And then he's going to show, if he can,
11 that there is some difference. And you'll have an opportunity
12 to respond. But you don't get to say things in this Court
13 without consequences. And you have represented to me that
14 everything that is on file in connection with the Motion for
15 Summary Judgment was served on the other side.

16 MS. STEVENSON: That's right, electronically.

17 THE COURT: Okay. I heard what you had to say.

18 MS. STEVENSON: That's right.

19 THE COURT: And I've told you what the consequences
20 will be if you have been inaccurate.

21 MS. STEVENSON: Well, I know what you sent to him I
22 left here. That's all I can say.

23 THE COURT: Okay. Well, you've said it. Now that
24 deals with the documents.

25 Now the question of her deposition?

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1 MR. MILLER: Yes, Your Honor. Magistrate Judge
2 Alexander specifically ordered Ms. Stevenson to appear for
3 deposition having found that she unjustifiably failed and
4 refused to participate in the first two sessions of her
5 deposition. She ordered it for date certain for December 20th
6 after accommodating Ms. Stevenson's schedule and allowing her
7 to reschedule it for a date that she had not been available on.
8 Ms. Stevenson failed to appear without justification, notice,
9 or excuse. And in fact, it appears that she was at this
10 courtroom filing documents on the day that she should have been
11 in our offices a few hundreds yards from here sitting for her
12 deposition. And as a result, my client, which is a charitable
13 educational organization, has been forced to expend thousands
14 more dollars on top of the tens of thousands of dollars that
15 it's already extended in this case for no justifiable reason.
16 And we believe that that alone stands for grounds for a
17 significant sanction against Ms. Stevenson.

18 THE COURT: Okay. Why didn't you show up for the
19 deposition?

20 MS. STEVENSON: Your Honor, I came across documents
21 and I produced documents that, according to the law, if you can
22 produce evidence with affidavits that show there is no issues
23 of fact that can be -- that could no longer -- that the
24 defendant can no longer claim and I came to the Court and I
25 submitted those documents because there is no issue now if they

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1 claim I was independent contractor -- and the issue is was I
2 depending on this person as an employer -- and I show through
3 my documents and my affidavit that I truly was dependent, I had
4 no other income -- outside of my employment with this --

5 THE COURT: Let me cut you short, because you've
6 got to answer my question: Why didn't you show up for the
7 deposition? You were ordered to show up for the deposition by
8 Judge Alexander. Why didn't you show up?

9 MS. STEVENSON: I did not show up, Your Honor,
10 because I had also informed him after the -- after he notified
11 me that I could no longer financially incur those costs of
12 going back and forth to the deposition. If he could move it
13 closer --

14 THE COURT: What costs of going back and forth?

15 MS. STEVENSON: The transportation costs.

16 THE COURT: But you were here in court filing on
17 that day.

18 MS. STEVENSON: Yes, sir.

19 THE COURT: Now, the transportation costs are the
20 same to get to this court as to get to the offices just down
21 the street.

22 MS. STEVENSON: Well, Your Honor, I made the cost
23 to come here to file it hopefully that it would grant -- that
24 the documents would show that there can be no more -- that
25 there are no more issues.

4 (Pages 10 to 13)

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1 THE COURT: You're in violation of a court order.
 2 MS. STEVENSON: Well, no, sir. I really --
 3 THE COURT: Yes, you are in violation of a court
 4 order. Magistrate Judge Alexander was clear. You have an
 5 obligation to appear before a deposition. You don't get to
 6 make your own choices about whether or not you appear or don't
 7 appear. You were ordered to appear and you didn't.
 8 Now, the question for me is what the sanction
 9 should be. I'm going to give you one more chance -- one more
 10 chance. I'm going to fix the date for deposition and you're
 11 going to appear.
 12 So, what date do you want? What dates do you want?
 13 MR. MILLER: Your Honor, we would like some time to
 14 review the court file and make sure we have documents
 15 available.
 16 THE COURT: What dates do you want?
 17 MR. MILLER: We're probably looking at a date in
 18 late February if that's acceptable to the Court.
 19 THE COURT: Okay. We'll fix a date in late
 20 February. Ms. Stevenson, when are you available?
 21 MS. STEVENSON: I don't have a calendar in front of
 22 me, Your Honor.
 23 THE COURT: Well, you're going to have to tell me
 24 right now.
 25 MS. STEVENSON: Well, I don't know.

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1 THE COURT: Well, I'm going to tell you when you're
 2 going to appear for the deposition. What other obligations do
 3 you have? Are you working?
 4 MS. STEVENSON: No, but I'm looking for a job.
 5 THE COURT: Okay. Well, then this date will
 6 interfere with your job search. Because you're going to have
 7 to appear on this date.
 8 MS. STEVENSON: In this Court?
 9 THE COURT: No, in the deposition at their office
 10 just as Magistrate Judge Alexander told you to do. And you
 11 should understand that it was within my power and it is within
 12 my power to dismiss this case for your willful failure to
 13 appear at the deposition, but I'm giving you one more chance.
 14 MR. MILLER: Can I request February 22nd, Your
 15 Honor, for the deposition?
 16 THE COURT: Thursday, February 22nd. At what time?
 17 MR. MILLER: 10 A.M., please.
 18 THE COURT: You should take that down,
 19 Ms. Stevenson. Thursday, February 22nd. I'm sorry. You don't
 20 seem to be writing.
 21 MS. STEVENSON: I don't have anything to write
 22 with.
 23 THE COURT: Okay. Well, Ms. Rynne will pass you a
 24 pen so that you can write this down.
 25 MS. STEVENSON: Well, suppose I get back and I have

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1 something on that date?
 2 THE COURT: Well, you're going to have to make some
 3 kind of motion.
 4 MS. STEVENSON: But was it in another court?
 5 THE COURT: You're going to have to make some kind
 6 of motion.
 7 MS. STEVENSON: Motion?
 8 THE COURT: Motion. You know about those. You've
 9 filed them. You filed a number of them. You're going to have
 10 to do what you didn't do with respect to Magistrate Judge
 11 Alexander's order. Ask for some sort of leave. And unless you
 12 get that leave from this Court, the consequence will be the
 13 dismissal of this case. February 22nd. At what time?
 14 MR. MILLER: At 10 A.M., please, Your Honor.
 15 THE COURT: 10 A.M. at the offices --
 16 MR. MILLER: At the offices of Seyfarth, Shaw,
 17 which is in the World Trade Center, a few hundred yards from
 18 here.
 19 THE COURT: That's where you're going to have to
 20 appear. And until I issue an order that says that you don't
 21 appear, you have to appear. Do you understand?
 22 MS. STEVENSON: Yeah.
 23 THE COURT: Now, what else?
 24 MS. STEVENSON: Might I ask a question?
 25 THE COURT: You'll have an opportunity. I'm asking

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1 a question of counsel first.
 2 MR. MILLER: If that's all Your Honor wishes to
 3 hear on our motion for order to show cause, the only remaining
 4 motions before the court, I believe, include plaintiff's motion
 5 for summary judgment, the two documents she filed on December
 6 20th. And to the extent that Your Honor hasn't already
 7 addressed it, there are objections to the Magistrate Judge's
 8 order.
 9 THE COURT: Now, assuming that you have the
 10 deposition and you have those documents, what is your next step
 11 in this case?
 12 MR. MILLER: We intend to move for summary
 13 judgment, Your Honor.
 14 THE COURT: All right. When would you move for
 15 summary judgment, Your Honor, in relation to the deposition?
 16 MR. MILLER: We would ask for three weeks after her
 17 deposition is completed.
 18 THE COURT: Okay. Well, it can be completed in one
 19 day.
 20 MR. MILLER: We believe it can if she cooperates,
 21 Your Honor.
 22 THE COURT: Okay. So, I will permit the filing of
 23 motions for summary judgment on March 16. And I will deny the
 24 motion for summary judgment of the plaintiff without prejudice
 25 in order to permit the full development of the record in this

5 (Pages 14 to 17)

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1 case.

2 Now, you had some something further that you wanted
3 to say?

4 MS. STEVENSON: Yes. Why would you deny my motion
5 if it's relevant to the issues now?

6 THE COURT: Because it's not timely and because you
7 have interfered with discovery. I just set a date for summary
8 judgment.

9 MS. STEVENSON: But if I gave evidence that can
10 show there is no deposition or anything else he can produce
11 that can overcome my evidence, why would you deny it?

12 THE COURT: Well, we'll find out. You'll show up
13 at the deposition.

14 MS. STEVENSON: Okay. And what about --

15 THE COURT: Just a moment.

16 MS. STEVENSON: (Heavy sighing).

17 THE COURT: And they'll get an opportunity --
18 excuse me. Have you completed your sighing?

19 MS. STEVENSON: My sighing?

20 THE COURT: Sighing.

21 MS. STEVENSON: Well --

22 THE COURT: Have you?

23 MS. STEVENSON: -- I still have -- I still have a
24 comment. But Your Honor, I really feel like there is nothing
25 else that I can produce for them.

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1 THE COURT: That's what every lawyer and every
2 party believes about their motions for summary judgment. But
3 we have an orderly process. We have a process in which the
4 parties don't just tell us when they feel like filing their
5 motion for summary judgment. They don't just tell us that
6 they'd like to show up or don't want to show up for a
7 deposition. Both sides are to be afforded an opportunity to
8 develop the case fully and I am affording both sides that
9 opportunity.

10 And, so, I said that I am dismissing your motion
11 for summary judgment or denying it without prejudice. That is,
12 it may be renewed on March 16th after the conclusion of all of
13 the relevant discovery, but not until.

14 MS. STEVENSON: So I have to refile again?

15 THE COURT: If you want to leave it as it stands,
16 you can have it left as it stands. You can refile it as it
17 stands. But it's not going to be ripe for consideration until
18 March 16th to afford the defendant the opportunity to conduct
19 such discovery as they were permitted by order of Judge
20 Alexander. Understand?

21 MS. STEVENSON: Well, no, because I feel like this
22 is lopsided. I have asked for documents, an employer -- or he
23 should have in regards to his claim that I was an independent
24 contractor. I can't get that from them.

25 THE COURT: And that's your motion to compel which

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1 was dealt with by Magistrate Judge Alexander.

2 MS. STEVENSON: Okay. What is -- she didn't even
3 address it, did she? I mean, there was nothing. I still can't
4 get a record from --

5 THE COURT: Magistrate Judge Alexander entered an
6 order on November 7th granting the motion to compel documents
7 and for sanctions by Neighborhood House Charter School. No
8 action was taken by the court on the motion to compel by
9 Ms. Stevenson in that it's not a discovery motion or one that
10 was dispositive in nature. And consequently, she denied the
11 motion for sanctions by Janice Stevenson. She denied the
12 motion to compel for terminating sanctions in the alternative
13 by Neighborhood Schools. In short, she dealt with it.

14 MS. STEVENSON: Well, again, this seems to be
15 lopsided. It seems to be --

16 THE COURT: Well, you say it's lopsided and
17 certainly you're entitled to whatever view you have.

18 MS. STEVENSON: Yes.

19 THE COURT: But the short of it is that there has
20 been a request for discovery and an order issued you have not
21 complied with. Now I'm giving you another chance to comply
22 with it. And once that has been completed, your motion for
23 summary judgment -- which you say is uncontroverted -- will be
24 ripe for consideration.

25 So, that's how we're going to leave it.

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1 MS. STEVENSON: Okay. But what about documents I
2 need?

3 THE COURT: Why do you need the documents? You
4 told me a moment ago that there's no need for documents, that
5 it's uncontroverted?

6 MS. STEVENSON: Well, there are still documents
7 they are statutorily required to have. And I would like to see
8 copies of those.

9 THE COURT: Have you made a motion to compel?

10 MS. STEVENSON: Yes, I have.

11 THE COURT: And what happened to that motion?

12 MS. STEVENSON: They said they won't give them to
13 me.

14 THE COURT: What happened to the motion to compel?

15 MS. STEVENSON: You mean the one that you just
16 read?

17 THE COURT: Yes.

18 MS. STEVENSON: Okay. Well, they're still -- I
19 feel like this is unfair. I feel like this is a lopsided case.

20 THE COURT: Well, I understand what you have said.
21 But the short of it is that you have so managed to interfere
22 with the discovery process in this case that it's necessary now
23 for two Judges of this Court to make extraordinary rulings,
24 Judge Alexander and me. We're making these orders in order to
25 ensure that the parties have an opportunity to address the

6 (Pages 18 to 21)

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1 question of summary judgment in an orderly fashion. You say
2 you're entitled to some additional documents.

3 MS. STEVENSON: Yes.

4 THE COURT: But you have not filed a motion to
5 compel that would permit me to order it. So, I have nothing
6 before me with respect to that.

7 We now have a schedule that you will comply with.
8 And if you fail to comply with it, the case will be dismissed.

9 MS. STEVENSON: Oh, and another thing. Have you
10 addressed my motion to withdraw? I had a request.

11 THE COURT: Right.

12 MS. STEVENSON: I wanted to put it in state court.

13 THE COURT: Whatever you want to do with the case
14 is up to you.

15 MS. STEVENSON: Okay.

16 THE COURT: If you want to file it in some other
17 court --

18 MS. STEVENSON: Make a motion.

19 THE COURT: -- I'm not going to interfere with
20 that.

21 MS. STEVENSON: Okay.

22 THE COURT: But it's withdrawn in this Court.

23 MS. STEVENSON: Okay.

24 THE COURT: And it can't be revived in this Court.

25 MS. STEVENSON: No.

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1 THE COURT: Okay. So first, we deal with motion
2 number 59, Motion to Withdraw the Motion for Order to Show
3 Cause. That motion to withdraw is allowed.

4 Second, we deal with the Motion for Summary
5 Judgment filed by the plaintiff when she was expected to be at
6 the deposition. That's number 57. That is denied without
7 prejudice. The time for filing Motions for Summary Judgment in
8 this case would be March 16th.

9 Third, we deal with the Motion to Show Cause, which
10 is number 56, which was indicated has been withdrawn.

11 We deal then with motion number 54, the Motion to
12 File a Supplemental brief in Support of the Motion to Show
13 Cause. That motion is allowed.

14 Next, we deal with the Motion for an Order to Show
15 Cause by the Neighborhood Charter School. I dealt with that
16 motion by establishing that the plaintiff has asserted under
17 pains of dismissal that there are no further documents that are
18 responsive to Judge Alexander's order that have not been
19 provided to counsel in this case -- defense counsel in this
20 case; and second, that Ms. Stevenson will appear for a
21 deposition on February 22nd at 10 A.M. in the Seyfarth offices.

22 I don't believe there's anything else that needs to
23 be dealt with, is there?

24 MR. MILLER: Your Honor, if we could just clarify.

25 You stated that the summary judgment motions are to be filed by

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1 March 16th. Should we set a date for responses to those
2 motions?

3 THE COURT: No, the ordinary.

4 MR. MILLER: Ten days?

5 THE COURT: No, it's 14 days.

6 MR. MILLER: Fourteen days after filing. Thank
7 you, Your Honor.

8 THE COURT: Okay. All right. Anything else?

9 (No response)

10 THE COURT: I think I have been as clear as I can
11 be about this, Ms. Stevenson. I hope that this case can be
12 resolved on the merits. I hope that I don't have to dismiss it
13 because of misconduct. But I've made it as clear as I can that
14 you've got one more chance to comply with Magistrate Judge
15 Alexander's orders. If you don't, then the case will be
16 dismissed for procedural infirmities and the failure on your
17 part properly to conduct yourself in litigation with this
18 Court.

19 So, if there's nothing further, we'll be in recess.

20 RECESSED AT 10:45 A.M.

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CERTIFICATION

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4 I certify that the foregoing is a correct
5 transcript of the record of proceedings in the above-entitled
6 matter to the best of my skill and ability.

7
8
9 Pamela R. Owens

Date

10 Official Court Reporter

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7 (Pages 22 to 25)

JANUARY 23, 2007>

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